

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8391 OF 2024**

Sangli, Miraj and Kupwad
Municipal Corporation,
Through its Commissioner,
Taluka: Miraj, District: Sangli.Petitioner

Vs.

Santosh Tukaram Malge,
Age 33 years, Residing at
Siddharth Nagar, Kupwad,
Taluka : Miraj, Dist.: Sangli.Respondent

Mr. G. H. Keluskar, for the Petitioner.

Mr. Amit Kumar Singh (Through VC), for the Respondent.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 15th SEPTEMBER 2025

ORAL JUDGMENT :-

1. Petitioner-Corporation takes exception to order dated 18th January 2024 passed by Labour Court, Sangli in Reference Application (IDA) No.7 of 2019 thereby directing Petitioner-Corporation to pay compensation of Rs.25,000/- to Respondent-employee within a period of 30 days and in default, to pay interest @ 9% p.a. on the compensation amount, till its realization.

2. Petitioner is the Municipal Corporation governed by provisions of Bombay Provincial Municipal Corporation Act, 1849. Respondent-

employee was appointed in service as 'safai kamgar' on the establishment of Corporation. He was in service since 18th January 2012 till 1st February 2014 in the Health Department as 'safai kamgar'. However, thereafter, Respondent-employee was not continued in service. Respondent raised demand for regularization of his service. He approached Labour Commissioner, who referred the dispute in the year 2019 to Labour Court in terms of Sections 2(a), 10, 12(5) and 39 of Industrial Disputes Act, 1947 (For short, '**ID Act**').

3. Accordingly, Reference Application (IDA) No.7 of 2019 was registered with Labour Court. Petitioner-Corporation filed reply in Reference and denied claim of Respondent-employee, contending that dispute is belatedly raised. Appointment of the Respondent-employee was for stipulated period on the basis of honorarium. He has not completed 240 days of continuous service. His appointment was not renewed. Further, such appointment was not against vacant/sanctioned post.

4. Learned Labour Court after hearing parties passed the award dated 18th January 2024, directing Petitioner-Corporation to pay

compensation of Rs.25,000/- to Respondent-employee. Hence, this Petition.

5. Mr. G. H. Keluskar, learned Advocate appearing for Petitioner vehemently submits that appointment of Respondent was for specified term as 'safai kamgar'. It was not against vacant or permanent post. On expiry of specified period of temporary appointment, further extension was not granted to him. Therefore, Section 25F of the ID Act would not apply. He would further submit that Respondent-employee had not completed 240 days of continuous service with the Petitioner. Respondent had entered into service knowing well the terms of his appointment. Hence, he is estopped from raising challenge to non-continuation of his service on expiry of term of appointment. He would further submit that stale dispute was referred to Labour Court in the year 2019, although Respondent-employee is out of service since 2014. The Labour Court could not have entertained stale reference and pass order granting compensation attributing violation of Section 25F of the ID Act against Petitioner.

6. Having considered submissions advanced on behalf of

Petitioner, it can be observed that there is no dispute regarding appointment of Respondent-employee as 'safai kamgar' in establishment of Petitioner-Corporation. It is true that initial appointment order dated 16th January 2012 indicates that the appointment was on honorarium, for a fixed term of six months. However, the record indicates after appointment of Respondent-employee vide order dated 18th January 2012 he was continued in employment till 1st February 2014, when he was discontinued from service by oral order. Respondent-employee has placed on record the evidence indicating that he was paid salary from month of January 2012 to January 2014. A copy of bank passbook indicating continuous payment of salary clearly depicts that even after expiry of initial period of six months of term of appointment, Petitioner-Corporation availed service of Respondent-employee up to January 2014.

7. At this stage reference can be given to observations of Supreme Court in case of *K. V Anil Mithra & Anr. v. Sree Sankaracharya University of Sanskrit & Anr.*¹ particularly to paragraph No.34 & 35 which reads thus:

1 (2022) 17 SCC 505.

34. *It is not open for us to examine the nature of employment offered to the workman and the manner he had served the employer is beyond the terms of reference made by the appropriate Government dated 8-4-2003 and the fact is that if the service of the workman has been terminated, it will be termed to be a retrenchment under Section 2(oo) of the Act provided it does not fall under any of those expressly excluded under the section. In every retrenchment, the employer is not under an obligation to comply with the twin conditions referred to under clauses (a) and (b) of Section 25-F of the Act but in a case where the workman has been in continuous service for more than 240 days in the preceding 12 months before the alleged date of termination as contemplated under Section 25-B, the employer is under an obligation to comply with the twin conditions referred to under clauses (a) and (b) of Section 25-F of the 1947 Act.*

35. *The consistent view of this Court is that such non-observance has been termed to be void ab initio bad and consequence in the ordinary course has to follow by reinstatement with consequential benefits but it is not held to be automatic and what alternative relief the workman is entitled for on account of non-observance of mandatory requirement of Section 25-F of the 1947 Act is open to be considered by the*

tribunal/courts in the facts and circumstances of each case.”

8. Learned Labour Court has rightly observed that Respondent-employee has completed continuous service of more than 240 days in terms of Section 25B of ID Act. It is not the case of Petitioner-Corporation that while discontinuing service of Respondent-employee, notice was served upon him in terms of Section 25F of ID Act. Evidently, the discontinuation of service of Respondent-employee was in violation of provisions contained under Section 25F of the ID Act. In the background, although Respondent-employee raised claim for re-instatement in service, the Labour Court granted lump-sum compensation of Rs.25,000/- in lieu of relief of reinstatement for violation of provisions under Section 25F of the ID Act. Since the Respondent-employee rendered service of approximately two years, the lump-sum compensation of Rs.25,000/- assessed by the Labour Court cannot be termed as ‘excessive’ or ‘exorbitant’.

9. The next contention raised by Petitioner is that stale reference is made. Respondent-employee raised dispute after five years of

termination. This point is no more *res integra*. In case of ***Ajab Singh v. The Sirhind Co-operative Marketing cum-Processing Service Society Ltd. & Anr.***² Supreme Court observed in paragraph No.11 as under:

“11. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay is shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/termination or dismissal. The Court may also in appropriate cases direct the payment of part of the back wages instead of full back wages.”

10. In that view of the matter, this Court finds that when Labour

² (1999) 6 SCC 82.

Court granted limited relief of compensation to workman in lieu of reinstatement, the issue of delay and laches cannot aid Petitioner to put up case for interference by this Court. The grant of compensation in lieu of reinstatement in service in case of violation under Section 25F of the ID Act is approved. In view of that, there is no jurisdictional error in the impugned order.

11. Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR, J.)

Digitally
signed by
RAJU
DATTATRAYA
GAIKWAD
Date:
2025.09.19
10:08:23
+0530